

07-CR-05464-ORD

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CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA)	
Plaintiff,)	CASE NO. CR 07-5464
vs.)	FINDINGS AND ORDER ACCEPTING
JOHN O. COOK,)	DEFENDANT FOR DEFERRED PROSECUTION,
)	APPROVING TREATMENT PLAN, AND
)	DIRECTING DEFENDANT TO TAKE
)	TREATMENT AS PRESCRIBED
Defendant)	(Clerk's Action Required)

THIS MATTER, coming on for hearing this 27 day of August, 2007, upon defendant's Petition for Deferred Prosecution; the defendant appearing in person and by his attorney, Eric B. Maughan of Geoffrey C. Cross, PS, Inc., and the United States of America being represented by the Assistant United States Attorney; the Court, having examined and incorporated into the record Petitioner's Petition and Statement in support of deferred prosecution, the evaluation and treatment report prepared by Department of the Army, Madigan Army Medical Center, and the

1 - Findings/Order Accepting
Defendant for Deferred Prosecution

ORIGINAL

LAW OFFICES OF
GEOFFREY C. CROSS, P.S., INC.
252 BROADWAY
TACOMA, WASHINGTON 98402
(253) 272-8998

cc: USPO Del To Ro

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2 files and records herein, being fully advised in the premises,
3 does now make and enter the following:

4 I. FINDINGS OF FACT

5 A. On or about the 25th day of April, 2007, Petitioner was
6 charged with the offense/offenses charge in the Information.
7 This offense occurred as a direct result of alcoholism/chemical
8 dependency problems;
9

10 B. Petitioner suffers from an alcohol/drug problem and is
11 in need of treatment;

12 C. The probability of similar misconduct in the future is
13 great if the problem is not treated;

14 D. Petitioner is amenable to treatment;

15 E. An effective rehabilitative treatment plan is available
16 to Petitioner through Department of the Army, Madigan Medical
17 Center, an approved treatment facility as designated by the laws
18 of the State of Washington, and Petitioner agrees to be liable
19 for all costs of this treatment program;
20

21 F. That Petitioner agrees to comply with the terms and
22 conditions of the program offered by the treatment facility as
23 set forth in the diagnostic evaluation from Department of the
24 Army, Madigan Medical Center, attached to Statement of Petitioner
25 filed herewith, and that Petitioner agrees to be liable for the
26
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28 2 - Findings/Order Accepting
Defendant for Deferred Prosecution

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2 costs of this treatment program;

3 G. That Petitioner has knowingly and voluntarily stipulated
4 to the admissibility and sufficiency of the facts as contained in
5 the written police report attached to Statement of Petitioner
6 filed herewith;

7
8 H. That Petitioner has acknowledged the admissibility of
9 the stipulated facts in any criminal hearing or trial on the
10 underlying offense or offenses held subsequent to revocation of
11 this Order Granting Deferred Prosecution and that these reports
12 will be used to support a finding of guilty;

13 From the foregoing FINDINGS OF FACT, the Court draws the
14 following:

15
16 II. CONCLUSIONS OF LAW

17 A. That the above-entitled Court has jurisdiction over the
18 subject matter and Petitioner, John O. Cook, in this case;

19 B. That Petitioner's Petition for Deferred Prosecution
20 meets the requirements of RCW 10.05 et seq.;

21 C. That the diagnostic evaluation and commitment to
22 treatment meets the requirements of RCW 10.05.150;

23
24 D. That petitioner is eligible for deferred prosecution.

25 III. ORDER

26 Having made and entered the foregoing FINDINGS OF FACT and
27

28 3 - Findings/Order Accepting
Defendant for Deferred Prosecution

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2 CONCLUSIONS OF LAW, it is hereby

3 ORDERED that the defendant is accepted for deferred
4 prosecution. The prosecution of the above-entitled matter is
5 hereby deferred for five (5) years pursuant to RCW 10.05 et seq.,
6 upon the following terms and conditions:

7
8 A. Petitioner shall be on probation for the deferral period
9 and follow the rules and regulations of probation;

10 B. Petitioner shall enroll in and successfully complete the
11 two year treatment program recommended by Madigan Medical Center
12 according to the terms and conditions of that plan as outlined in
13 the diagnostic evaluation, a true copy of which is attached to
14 the Petition and incorporated herein by reference. Petitioner
15 shall not change treatment agencies without prior Probation
16 approval;

17
18 C. The treatment facility Madigan Medical Center, shall
19 file with the United States Probation Office status reports of
20 Petitioners's compliance with treatment, monthly during the first
21 year of the deferred prosecution period and every three (3)
22 months during the second year. The Court may increase the
23 frequency of these reports at its discretion;

24
25 D. Petitioner shall notify the U.S. Probation within 72
26 hours of any residence change;

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28 4 - Findings/Order Accepting
Defendant for Deferred Prosecution

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2 E. Petitioner shall abstain during the deferred prosecution
3 period from any and all consumption of alcoholic beverages and/or
4 non-prescribed mind-altering drugs;

5 F. Petitioner shall not operate a motor vehicle on the
6 public highways without a valid operator's license and proof of
7 liability insurance sufficient to comply with the state laws on
8 financial responsibility;
9

10 G. Petitioner shall be law abiding and shall not commit any
11 alcohol/drug related offenses or other criminal offenses during
12 the period of deferral;

13 H. Petitioner shall notify U. S. Probation within 72 hours
14 of being arrested, questioned, or cited by Law Enforcement;
15

16 I. In the event that petitioner fails or neglects to carry
17 out and fulfill any term or condition of her/his treatment plan
18 or violates any provision of this Order or any rule or regulation
19 of her/his probation officer, upon receiving notice, the Court
20 shall hold a hearing to determine by Petitioner should not be
21 removed from the deferred prosecution and prosecuted for the
22 offense/offenses charged;
23

24 J. In the event the Court finds cause to revoke this
25 deferred prosecution, the stipulated police reports shall be
26 admitted into evidence, and Petitioner shall have her/his guilt
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28 5 - Findings/Order Accepting
Defendant for Deferred Prosecution

or innocence determined by the Court;

K. That the statement of Petitioner for Deferred Prosecution shall remain sealed, and all subsequent reports or documents relating to her treatment information shall be sealed, to maintain confidentiality of Petitioner's treatment information;

L. That the Department of Licensing shall be notified of this Order accepting the Petitioner for deferred prosecution;

M. Upon proof of Petitioner's successful completion of five years deferral period in this Order, the Court shall dismiss the charges pending against Petitioner;

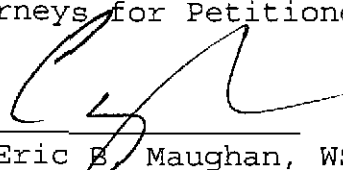
N. Additional conditions: Conditions 1 thru 13

in Pre-sentence Report dated/prepared
9-13-07

DONE IN OPEN COURT this 29 day of October, 2007.


UNITED STATES MAGISTRATE JUDGE

Presented by:
GEOFFREY C. CROSS, P.S., INC.
Attorneys for Petitioner/Defendant


by: Eric B. Maughan, WSB #32740

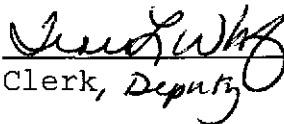
6 - Findings/Order Accepting
Defendant for Deferred Prosecution

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2 I have received a copy of the foregoing Order of Deferred
3 Prosecution, I have read and understand its contents, and agree
4 to abide by the terms and conditions set forth herein.

5
6 DATED: 8/27/07


John O. Cook,
Petitioner/Defendant

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9 I certify that a copy of this signed Order was mailed to the
10 subject treatment facility on 9/17/07. The United
11 States Probation Office was also furnished a copy of this Order.

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Clerk, Deputy

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28 7 - Findings/Order Accepting
Defendant for Deferred Prosecution

- (1) You shall not leave the judicial district without permission of the court or probation officer;
- (2) You shall report to the probation officer as directed by the court or probation officer, and shall submit a truthful and complete written report within the first five days of each month;
- (3) You shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- (4) You shall support your dependents and meet other family responsibilities;
- (5) You shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- (6) You shall notify the probation officer within seventy-two hours of any change in residence or employment;
- (7) You shall abstain from the use of alcohol or other intoxicants, and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician; You shall submit to one drug and/or alcohol test within 15 days of placement on probation (or release from imprisonment) and at least two periodic drug and/or alcohol tests thereafter not to exceed eight valid tests per month, pursuant to 18 U.S.C. § 3563(a)(5) and 18 U.S.C. § 3583(d).
- (8) You shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- (9) You shall initiate, maintain, and successfully complete the two-year treatment program recommended by the evaluation report, according to the terms and conditions of that plan and the recommendations of the treating agency;
- (10) You shall permit a probation officer to visit you at any time at home or elsewhere, and shall permit confiscation of any contraband observed in plain view by the probation officer;
- (11) You shall not commit any criminal law violation and shall not commit any alcohol related offenses. You will not operate a motor vehicle without a valid operator's license and proof of liability insurance to comply with State law;
- (12) You shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- (13) As directed by the probation officer, you shall notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm your compliance with such notification requirement.